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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Andean Commission of Jurists, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 February 1993]

## Political violence and summary or arbitrary executions in the Andean region

1. The return of constitutional regimes in the Andean region, which began in the 1980s and the hopes this raised for the consolidation of democracy in our region suffered a serious setback in 1992 with the destruction of the constitutional regime in Peru and the attempts to destabilize the constitutional regime in Venezuela.

2. This process, which is undoubtedly a positive and essential step towards strengthening regional democracy, has proved to be neither irreversible nor sufficient to guarantee the full realization of human rights. The continued occurrence of serious violations of these rights in Colombia, under a constitutional regime, and in Peru, under the aegis of a de facto regime, demonstrates that arbitrary behaviour leading to the violation of human rights still persists in the face of the fragility and ineffectiveness of most of the institutions responsible for their protection.

3. In Colombia, political violence and the practice of summary or arbitrary executions continue to cut short the lives of thousands every year. In the first half of 1992 alone, 2,051 persons lost their lives for political or ideological reasons. Sixty-four per cent of the cases in which the perpetrator or the motive was identified were attributable to State agents, 22 per cent to the guerrillas, 12 per cent to paramilitary groups and 2 per cent to individuals.

4. The situation in that country is not only serious but is extremely complex because of the variety of violent players involved in it. Even though the violence caused by drug-trafficking has decreased, the process of peacemaking - which has enabled four subversive organizations to be reintegrated into civilian life - has suffered a severe setback as a result of the indefinite suspension of the talks between the Government and the Simon Bolivar Guerrilla Coordinating Body, and the increase in this organization's sabotage activities, which are causing even greater deterioration of the living conditions of the population and making it more difficult to reach a peaceful solution to the armed confrontation.

5. In Peru, the situation continues to be serious and is even more disturbing than previously. Since the destruction of the constitutional regime in April 1992, unconstitutional laws have permitted violations of, inter alia, the right to personal freedom and security of person, the right of defence, the right not to be held incommunicado, the right of due process, the right to freedom of opinion, job security and social security and the right of effective recourse to the courts for the protection of fundamental rights (habeas corpus and amparo). There have also been numerous cases of blatant political persecution, which in some instances have forced the persons concerned to seek asylum or refuge. In short, this legislation has been restricting an increasingly broad range of civil and political rights and also economic and social rights, thereby strengthening the bases of political violence in Peru.

6. From 1980 to the present, the violence unleashed by the subversive groups in Peru, particularly Sendero Luminoso (Shining Path), and the Government's response to that violence have caused over 28,000 deaths. In 1992 there were 3,101 deaths, 1,677 of which were attributable to Sendero Luminoso. An average of nine deaths a day is a terrible figure as it constitutes a significant increase over the average recorded during previous periods of government. More than 45 per cent of the deaths through political violence in 1992 were among the civilian population; this shows the limited extent to which in Peru today the basic standards of international humanitarian law are complied with.

7. However, although Sendero Luminoso is largely responsible for these deaths and violates the fundamental norms of humanity through its criminal activity, this cannot legitimize or justify a governmental response to insurgency which violates the most elementary rights. According to the Peruvian human rights organizations, between January and November 1992 there were 104 summary or arbitrary executions and 53 murders attributable to paramilitary groups.

8. Moreover, we cannot but express our deep concern over the disappearance of 31 students from the Universidad del Centro in the city of Huancayo, and the subsequent discovery of the bodies of 23 of them with visible signs of torture. At about the same time, 12 students disappeared from the Enrique Guzman y Valle University in the city of Lima. Two of them reappeared but, given the time which has elapsed since their disappearance in July 1992, we fear for the lives of the remaining 10 who, like the students from Huancayo, have very probably been executed.

9. Summary or arbitrary executions, as stated in the first reports of the Special Rapporteur, usually occur within the framework of internal armed conflicts, as demonstrated by the cases of Colombia and Peru in the Andean region, but they are also a result of the use of excessive force in maintaining law and order and quelling popular protests, and in reprisals for abortive coups and even crackdowns on ordinary crime. Unfortunately, all these situations are now occurring in some countries of the region.

10. In Venezuela, where the human rights organizations have recorded a marked increase in the violations of the right to life by State agents, 35 persons died between October 1991 and September 1992 because of the excessive use of force; 19 of these deaths occurred in the repression of student or popular demonstrations. During the same period, the indiscriminate use of force in operations against ordinary crimes led to the death of 19 innocent persons, several of whom were children. Recently, in November 1992, several persons were executed as part of the climate of violence which was unleashed in connection with the most recent attempted military coup. On that occasion, scores of prisoners taking advantage of the prevailing confusion, rioted and attempted to escape from a prison but died because of the excessive and indiscriminate force used in putting down that disturbance.

11. In Peru in May 1992, a riot by prisoners accused of belonging to Sendero Luminoso was put down with a loss of at least 50 lives, although the relatives of the prisoners, claim that 101 died. The Peruvian Government reported the deaths of only 28 of the Sendero Luminoso prisoners.

12. In societies where violence has reached such alarming levels that human life and dignity lose their value, the State is duty bound to use its best efforts to guarantee the realization of the human rights of all its citizens by adopting preventive measures and punishing all who violate them, in order to prevent impunity from becoming an element that breeds further violence.

13. Consequently, it is very disturbing that the violations of human rights in the Andean region usually go unpunished. In Venezuela, the demand for justice by the many victims of the popular protest which took place in 1989, known as the "Caracazo", has remained unanswered, and the same is true of the massacre of 14 fishermen at El Amparo in 1989. Both cases are being handled by the military courts, although the victims were civilians, the acts in question were ordinary crimes and many of those presumed to be guilty were police officers and were therefore subject to the jurisdiction of the civil courts.

14. In Bolivia, a judgement is still pending in the trial of the former dictator Garcia Meza and 56 officials of his Government; the trial started in

1986, in the ordinary courts. They are accused of many offences, including the organization of armed irregular groups and the assasination of political leaders.

15. In Ecuador, there is concern that the disappearance of the Restrepo brothers, which occurred in 1988 and is being investigated by an international commission, may go unpunished. The person primarily responsible, General Gilberto Molina, former Chief of the Ecuadorian police escaped in October 1992 from the police establishment where he was being held by order of the Supreme Court.

16. But it is in Peru that impunity has assumed its most terrifying proportions. Serious and massive violations of human rights continue to go unpunished. Although this has for many years been one of the countries where there has been the largest number of enforced disappearances in the world, not one member of the security forces has been sentenced for this crime.

17. Since impunity creates a loss of confidence in the administration of justice and constitutes an affront to the victims and their families and to the moral conscience of society, it is imperative that a situation legitimizing behaviour which violates civilized human co-existence should be reversed.

18. Furthermore, the mechanisms of impunity which operate in favour of the perpetrators of these crimes make it difficult to halt the practices which violate human rights, by preventing clarification of the facts and the pursuit of preventive policies. Because of the gravity of the situation in Peru, it is essential that the Special Rapporteur on extrajudicial, summary or arbitrary executions should visit the country without delay and verify on the spot the serious violations of human rights which fall within his mandate and are being committed there. We trust that his visit will contribute to the implementation of the recommendations made to Governments by the Special Rapporteur in his report submitted to the Commission at its previous session, in particular that any allegations concerning summary executions should be investigated rigourously and that the responsible parties should be prosecuted without delay by an independent and impartial tribunal; that national law and practice should be reviewed in order to ensure compatibility with international human rights standards; and that appropriate training should be given to law-enforcement, judicial, correctional and military personnel.

19. It should also be impressed upon the Governments of the countries confronted with internal armed conflict that they should cooperate fully with the International Committee of the Red Cross, especially Peru, where this important humanitarian organization is facing constraints in carrying out its altruistic work.

20. The events which occurred in 1992 in prisons in Peru and Venezuela, which ended in a regrettably large number of deaths among the prisoners together with the subhuman conditions in which prisoners live in most of the Andean countries, make it clear that another of the important recommendations made by the Special Rapporteur, should be urgently implemented, namely, that Governments should take all necessary measures to ensure the rapid and complete elimination of unnatural deaths in custody, whether due to torture,

excessive use of force in controlling prisoners, or lack of minimally adequate nutrition, sanitation and health care.

21. Lastly, under this item, we must stress the need to continue giving due attention to the extensive and serious violations of rights, under constitutional regimes, because of the particular form such violations may take, as borne out by the cases of Colombia and Venezuela and, up to April 1992, Peru. To that end, it is obvious that in the case of Peru the recent inauguration of the so-called democratic Constituent Congress does not in itself establish a sufficient guarantee that the present situation described above as regards the serious violations of civil rights will be reversed; this calls for close attention by the international community, within the framework of resolution 1992/12 adopted on 27 August 1992 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled "Support for the restoration of democracy in Peru".

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